

IN THE SENATE

SENATE BILL NO. 1077

BY EDUCATION COMMITTEE

AN ACT

RELATING TO EDUCATION AND INTERSTATE COMPACTS; AMENDING TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 57, TITLE 33, IDAHO CODE, TO PROVIDE THE COMPACT'S PURPOSE, TO PROVIDE APPLICABILITY, TO PROVIDE FOR EDUCATIONAL RECORDS AND ENROLLMENT, TO PROVIDE FOR PLACEMENT AND ATTENDANCE, TO PROVIDE FOR ELIGIBILITY, TO PROVIDE FOR GRADUATION, TO PROVIDE FOR STATE COORDINATION, TO PROVIDE FOR THE INTERSTATE COMMISSION ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN, TO PROVIDE THE COMMISSION'S POWERS AND DUTIES, TO PROVIDE FOR ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION, TO PROVIDE THE COMMISSION'S RULEMAKING FUNCTION, TO PROVIDE OVERSIGHT, ENFORCEMENT AND DISPUTE RESOLUTION, TO PROVIDE FOR FINANCING OF THE INTERSTATE COMMISSION, TO PROVIDE THE EFFECTIVE DATE AND AMENDMENT, TO PROVIDE FOR WITHDRAWAL AND DISSOLUTION, TO PROVIDE FOR SEVERABILITY AND CONSTRUCTION AND TO PROVIDE EFFECT OF THE COMPACT AND OTHER LAWS.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 57, Title 33, Idaho Code, and to read as follows:

CHAPTER 57

INTERSTATE COMPACT ON EDUCATIONAL
OPPORTUNITY FOR MILITARY CHILDREN

33-5701. COMPACT ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN.

ARTICLE I – COMPACT'S PURPOSE

The compact's stated purpose is to remove barriers to educational success imposed on children of military families (military children) because of their parents' frequent moves and deployment. It aims to:

1. Facilitate their timely enrollment and ensure that they are not placed at a disadvantage because of (a) variations in age or entrance requirements or (b) difficulty transferring education records from previous school districts;

2. Facilitate their placement so that they are not disadvantaged by variations in attendance requirements, scheduling, sequencing, grading, course content or assessments;

3. Facilitate their qualification and eligibility for enrollment, educational programs, and participation in extracurricular academic, athletic and social activities;
4. Facilitate on-time graduation;
5. Provide for promulgating and enforcing administrative implementing rules;
6. Provide for uniform information collection and sharing among member states, schools and military families;
7. Promote coordination with other compacts affecting military children; and
8. Promote flexibility and cooperation among educational systems, parents and students to achieve educational success for the students.

ARTICLE II – DEFINITIONS

As used in this compact, unless the context clearly requires a different construction:

A. "Active duty" means: full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. Section 1209 and 1211.

B. "Children of military families" means: a school-aged child(ren), enrolled in Kindergarten through Twelfth grade, in the household of an active duty member.

C. "Compact commissioner" means: the voting representative of each compacting state appointed pursuant to Article VIII of this compact.

D. "Deployment" means: the period one (1) month prior to the service members' departure from their home station on military orders through six (6) months after return to their home station.

E. "Education(al) records" means: those official records, files and data directly related to a student and maintained by the school or local education agency, including, but not limited to, records encompassing all the material kept in the student's cumulative folder such as general identifying data, records of attendance and of academic work completed, records of achievement and results of evaluative tests, health data, disciplinary status, test protocols and individualized education programs.

F. "Extracurricular activities" means: a voluntary activity sponsored by the school or local education agency or an organization sanctioned by the local education agency. Extracurricular activities include, but are not limited to, preparation for and involvement in public performances, contests, athletic competitions, demonstrations, displays and club activities.

G. "Interstate Commission on Educational Opportunity for Military Children" means: the commission that is created under Article IX of this compact, which is generally referred to as Interstate Commission.

H. "Local education agency" means: a public authority legally constituted by the state as an administrative agency to provide control of and direction for Kindergarten through Twelfth grade public educational institutions.

I. "Member state" means: a state that has enacted this compact.

J. "Military installation" means: a base, camp, post, station, yard, center, home port facility for any ship or other activity under the jurisdiction of the Department of Defense, including any leased facility, which is located within any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Marianas Islands and any other U.S. Territory. Such term does not

1 include any facility used primarily for civil works, rivers and harbors projects or flood control
2 projects.

3 K. "Non-member state" means: a state that has not enacted this compact.

4 L. "Receiving state" means: the state to which a child of a military family is sent,
5 brought or caused to be sent or brought.

6 M. "Rule" means: a written statement by the Interstate Commission promulgated
7 pursuant to Article XII of this compact that is of general applicability, implements, interprets or
8 prescribes a policy or provision of the Compact, or an organizational, procedural, or practice
9 requirement of the Interstate Commission, and has the force and effect of statutory law in a
10 member state, and includes the amendment, repeal, or suspension of an existing rule.

11 N. "Sending state" means: the state from which a child of a military family is sent,
12 brought or caused to be sent or brought.

13 O. "State" means: a state of the United States, the District of Columbia, the
14 Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern
15 Marianas Islands and any other U.S. Territory.

16 P. "Student" means: the child of a military family for whom the local education agency
17 receives public funding and who is formally enrolled in Kindergarten through Twelfth grade.

18 Q. "Transition" means: (1) the formal and physical process of transferring from school
19 to school or (2) the period of time in which a student moves from one school in the sending
20 state to another school in the receiving state.

21 R. "Uniformed service(s)" means: the Army, Navy, Air Force, Marine Corps, Coast
22 Guard as well as the Commissioned Corps of the National Oceanic and Atmospheric
23 Administration and Public Health Services.

24 S. "Veteran" means: a person who served in the uniformed services and who was
25 discharged or released therefrom under conditions other than dishonorable.

26 ARTICLE III – APPLICABILITY

27 Children

28 The compact applies to children in grades K-12 of:

29 1. Active-duty members of the uniformed services (U.S. army, navy, air force, marine
30 corps, coast guard, commissioned corps of the national oceanic and atmospheric administration
31 and public health services), including guard members and reservists on active duty under title
32 10 of federal law;

33 2. Members or veterans of the uniformed services severely injured and medically
34 discharged or retired, for one (1) year after such discharge or retirement; and

35 3. Members of the uniformed services who die on active duty or from active-duty
36 injuries, for one (1) year after death.

37 The compact specifically excludes from its coverage children of (1) inactive guard
38 members and reservists, (2) veterans and retired members of the uniformed services not
39 included above, and (3) other U.S. department of defense (DOD) personnel and other federal
40 agency civilian and contract employees not defined as active-duty members of the uniformed
41 services.

42 Education Agencies and Schools

1 The compact applies to local education agencies. It defines these as state-constituted
 2 public authorities that control and direct public K-12 schools (i.e., local and regional school
 3 boards).

4 ARTICLE IV – EDUCATIONAL RECORDS AND ENROLLMENT

5 If a school cannot release official education records to parents for transfer purposes, the
 6 sending state's record custodian must give the parents a complete set of unofficial records
 7 with uniform information as determined by the interstate commission. When the school in the
 8 receiving state gets these records, it must (1) place the student as quickly as possible, pending
 9 validation by the official records, and (2) ask the sending state for the official records. Within
 10 ten (10) days of receiving the request, or within a reasonable time the commission sets, the
 11 school must provide the official records.

12 The compact defines "educational records" as official student records, files and data
 13 that a school or school board maintains, including records of all material kept in a student's
 14 cumulative folder. These include general identifying data, attendance and academic records,
 15 records of achievement and results of evaluative tests, health data, disciplinary status, test
 16 protocols and individualized education programs.

17 Receiving states must give students thirty (30) days from enrollment, or a deadline the
 18 commission sets, to obtain state-required immunizations. For a series of immunizations, the
 19 initial vaccinations must be obtained within thirty (30) days or a time reasonably determined
 20 under the commission's rules.

21 Students must be allowed to enroll at grade level in receiving states commensurate with
 22 their grade level, including kindergarten, in sending states at the time of transition. If they
 23 satisfactorily complete the prerequisite grade level in the sending state, they may enroll in the
 24 next highest grade level in the receiving state. If they transfer after the start of the school
 25 year, they must enroll at their validated level from a sending state's accredited school. These
 26 provisions apply regardless of the student's age.

27 ARTICLE V – PLACEMENT AND ATTENDANCE

28 Receiving schools must initially place transitioning military students in educational
 29 courses based on their enrollment in, and educational assessments conducted at, sending
 30 schools if the receiving schools offer the courses. This includes honors, international
 31 baccalaureate, advanced placement, vocational, technical and career pathways courses. The
 32 paramount considerations for placing a student should be to (1) continue the academic program
 33 he or she pursued in the sending school and (2) place him or her in academically and career
 34 challenging courses.

35 Receiving schools must initially honor student placement in educational programs based
 36 on (1) sending schools' current educational assessments or (2) participation and placement in
 37 like programs in sending states. These include gifted and talented and English as a second
 38 language programs.

39 Receiving schools may perform subsequent evaluations to ensure appropriate placement
 40 and continued course enrollment.

41 Federal Requirements

1 In compliance with the federal individuals with disabilities education act, receiving states
2 must initially provide comparable services to students with disabilities based on their current
3 individualized education programs.

4 In compliance with the federal rehabilitation act and Americans with disabilities act,
5 receiving states must make reasonable accommodations and modifications to address the needs
6 of incoming students with disabilities, subject to an existing 504 or title II plan, to provide
7 students with equal education access. Receiving schools may perform subsequent evaluations
8 to ensure appropriate student placements.

9 Course Waivers

10 The compact requires that local school board administrative officials be given flexibility
11 to waive course and program prerequisites, or other preconditions, for placement in courses and
12 programs offered under the local school board's jurisdiction.

13 School Absences

14 A student whose parent or legal guardian is called to active duty for, is on leave from, or
15 "immediately returned" from, deployment in a combat or combat-support zone must be granted
16 additional excused absences at the discretion of the local school board superintendent to visit
17 with his or her parent or legal guardian "relative to such leave or deployment of the parent or
18 guardian."

19 The compact defines "deployment" as the period one (1) month before a service
20 member's departure on military orders from his or her "home station" to six (6) months after
21 returning.

22 ARTICLE VI – ELIGIBILITY

23 Children with Noncustodial Parents/Transitioning Military Children

24 Under the compact, special power of attorney for the guardianship of a military child,
25 executed under applicable law, is sufficient for enrollment and other purposes requiring parental
26 participation and consent.

27 Local school boards cannot charge local tuition to a transitioning military child living
28 with a noncustodial parent or other person standing in loco parentis in a jurisdiction other than
29 that of the custodial parent. The child may continue to attend the school in which he or she
30 was enrolled while living with the custodial parent.

31 The state and local school boards must facilitate the inclusion of transitioning military
32 children in extracurricular activities, regardless of application deadlines, to the extent they are
33 otherwise qualified.

34 ARTICLE VII – GRADUATION

35 The state and local school boards must incorporate the following procedures to facilitate
36 on-time graduation of military children. They must (1) waive specific courses required for
37 graduation if the child satisfactorily completed similar coursework in another local school
38 board's jurisdiction or (2) provide reasonable justification for denial. If the board does not
39 grant the waiver to a student who would qualify to graduate from the sending school, it must

1 provide an alternative means of completing the required coursework so the student can graduate
2 on time.

3 A receiving state must accept (1) exit or end-of-course exams required for graduation
4 from the sending state; (2) national norm-referenced achievement tests; or (3) alternative
5 testing, instead of its graduation testing requirements.

6 If, after all alternatives are considered, a military student transferring in his or her senior
7 year who meets graduation requirements in the sending state is ineligible to graduate in the
8 receiving state, the local school boards in both jurisdictions must ensure that the sending state's
9 local school board provides the diploma to the student. If one of the states is not a compact
10 member, the member state must use its best efforts to facilitate the on-time graduation of the
11 student in accordance with pertinent compact provisions.

12 ARTICLE VIII – STATE COORDINATION

13 Each member state must create a state council or use an existing body or board to
14 coordinate the state's participation in, and compliance with, the compact and commission
15 activities.

16 Each member state may determine its council membership. But the membership must
17 include the state education superintendent, a superintendent of a school district with a high
18 concentration of military children, a military installation representative, one (1) representative
19 each from the legislative and executive branches of government, and other offices and
20 stakeholder groups the council deems appropriate. A state that does not have a school district
21 deemed to contain a high concentration of military children may appoint a superintendent from
22 another school district to represent local school boards on the council.

23 Military Family Education Liaison and Compact Commissioner

24 Each state's council must appoint or designate a military family education liaison to help
25 military families and the state implement the compact. The governor, or other person the
26 state determines, must appoint a compact commissioner to administer and manage the state's
27 participation in the compact. The commissioner and military family education liaison are ex
28 officio council members, unless either is already a full voting council member.

29 ARTICLE IX – INTERSTATE COMMISSION ON EDUCATIONAL OPPORTUNITY FOR 30 MILITARY CHILDREN

31 The compact creates the interstate commission on educational opportunity for military
32 children. Its activities are "the formation of public policy and are a discretionary state
33 function." It is a body corporate and joint agency of the member states having all the
34 responsibilities, powers and duties under the compact and additional powers that a subsequent
35 concurrent action of the participating states' respective legislatures may confer upon it, in
36 accordance with the compact.

37 Membership

38 The commission consists of (1) voting members and (2) ex officio, nonvoting
39 representatives of interested organizations.

1 It must have one (1) voting representative from each member state. This member is
 2 the state's compact commissioner. Each member state represented at a commission meeting
 3 has one (1) vote. A majority of the total member states constitutes a quorum for transacting
 4 business, unless the commission's bylaws set a larger quorum. A representative cannot
 5 delegate a vote to another member state, but if a commissioner cannot attend a meeting, the
 6 governor or state council may delegate voting authority to another person from the state for a
 7 specific meeting. The bylaws may provide for conducting commission meetings by telephone
 8 or electronically.

9 Ex officio members, as defined in the bylaws, may include representative organizations of
 10 military family advocates, local school board officials, parent and teacher groups, the DOD, the
 11 education commission of the states, the interstate agreement on the qualification of educational
 12 personnel and other interstate compacts affecting the education of military children.

13 Executive Committee

14 The commission must establish an executive committee, which may act on its behalf,
 15 except to make rules, when it is not in session. The committee must oversee the day-to-day
 16 activities of administering the compact. This includes enforcement and compliance with regard
 17 to compact provisions, bylaws and rules, and performing other necessary duties.

18 The committee must include the commission's officers and other commission members,
 19 as the bylaws require. These members serve one (1) year terms and have one (1) vote each.
 20 DOD must serve as an ex officio, nonvoting member.

21 Bylaws and Information Disclosure

22 The commission must establish bylaws and rules outlining conditions and procedures for
 23 making information and official records publicly available for inspection or copying. It may
 24 exempt from disclosure information or official records that would adversely affect personal
 25 privacy rights or proprietary interests.

26 Meetings

27 The commission must meet at least once each calendar year. Its chairperson may call
 28 additional meetings and must do so if a majority of member states asks for one.

29 The commission must give public notice of all its meetings. Meetings must be open
 30 to the public, except as the commission's rules or the compact otherwise provides. The
 31 commission and its committees may close a meeting, or portion thereof, if it determines by
 32 two-thirds (2/3) vote that an open meeting is likely to:

- 33 1. Relate solely to internal personnel practices and procedures;
- 34 2. Disclose matters that state or federal law specifically exempts from disclosure;
- 35 3. Disclose trade secrets or privileged or confidential commercial or financial
 36 information;
- 37 4. Involve formally censuring someone or accusing him or her of a crime;
- 38 5. Disclose personal information where disclosure would constitute a clearly unwarranted
 39 invasion of personal privacy;
- 40 6. Disclose investigative records compiled for law enforcement purposes; or
- 41 7. Specifically relate to the commission's participation in a civil action or other legal
 42 proceeding. The commission may direct its legal counsel or designee to certify that a meeting

1 may be closed and the counsel or designee must cite each relevant criterion governing its
2 closure.

3 The commission must (1) keep minutes that fully and clearly describe all matters
4 discussed in a meeting and (2) provide a full and accurate summary of, and reasons for, actions
5 taken, including a description of the views expressed and roll call vote record. The minutes
6 must identify documents considered in connection with an action. All minutes and documents
7 of a closed meeting must be sealed, subject to release by a majority vote of the commission.

8 Data Collection

9 The commission must collect standardized data on the educational transition of military
10 children under the compact as its rules direct. The rules must specify the data to be collected,
11 data exchange and collection methods and reporting requirements. The data collection,
12 exchange and reporting, as far as reasonably possible, must conform to current technology and
13 "coordinate its information functions with the appropriate custodian of records as identified in
14 the bylaws and rules."

15 Violation and Noncompliance Reports

16 The commission must create a process for military officials, education officials and
17 parents to inform it when (1) any alleged violations of the compact or its rules occur or (2) a
18 state or local school board does not address issues under the jurisdiction of the compact or its
19 rules. This does not create a private right of action against the commission or member states.

20 ARTICLE X – COMMISSION’S POWERS AND DUTIES

21 The compact gives the commission the power to:

- 22 1. Provide for dispute resolution among member states;
- 23 2. Promulgate rules that have the force and effect of statutory law and are binding on
24 all member states and take all necessary actions to achieve the compact’s goals, purposes and
25 obligations;
- 26 3. Issue advisory opinions on the meaning or interpretation of the compact, its bylaws,
27 rules and actions when a member state asks;
- 28 4. Enforce compliance with the compact and the commission’s rules and bylaws, using
29 all necessary and proper means, including the judicial process;
- 30 5. Establish and maintain offices in one (1) or more of the member states;
- 31 6. Buy and maintain insurance and bonds;
- 32 7. Borrow, accept, hire or contract for personnel services;
- 33 8. Establish and appoint committees, including an executive committee, to act on its
34 behalf;
- 35 9. Elect or appoint officers, attorneys, employees, agents or consultants, and fix their
36 compensation, define their duties and determine their qualifications;
- 37 10. Establish personnel policies and programs relating to conflicts of interest,
38 compensation rates and personnel qualifications;
- 39 11. Accept, receive, use and dispose of donations and grants of money, equipment,
40 supplies, material and services;
- 41 12. Lease, buy and accept contributions or donations of, or otherwise own, hold, improve
42 or use, property;

13. Sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of any property;
14. Establish a budget and make expenditures;
15. Adopt a seal and bylaws governing its management and operation;
16. Report annually to member states' legislatures, governors, judiciary and state councils on its activities during the preceding year, including any recommendations it adopted;
17. Coordinate education, training and public awareness on the compact, its implementation and operation for pertinent officials and parents;
18. Establish uniform standards for reporting, collecting and exchanging data;
19. Maintain corporate books and records in accordance with its bylaws;
20. Perform functions necessary or appropriate to achieve the compact's purposes; and
21. Provide for uniform information collection and sharing among member states, schools and military families.

ARTICLE XI – ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

Within twelve (12) months after its first meeting, the commission, by a majority vote of members present and voting, must adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the compact's purposes. The bylaws must:

1. Establish the commission's fiscal year;
2. Establish an executive committee and other committees as necessary;
3. Provide for establishing committees and for governing any general or specific delegation of authority or commission function;
4. Provide reasonable procedures for calling and conducting meetings and providing meeting notices;
5. Establish titles and responsibilities of commission officers and staff;
6. Provide a mechanism for winding up business and returning any leftover funds when the compact terminates, after paying and reserving for debts and obligations; and
7. Provide start-up rules for initially administering the compact.

Commission Officers

Annually, the commission, by a majority vote of its members, must elect from its membership a chairperson, vice-chairperson and treasurer, each having the authority and duties specified in the commission's bylaws. The chairperson or, in the chairperson's absence or disability, the vice-chairperson, must preside at all commission meetings. These elected members serve without compensation or remuneration but, subject to the availability of budgeted funds, must be reimbursed for ordinary and necessary costs and expenses incurred performing commission business.

Executive Committee, Officers and Personnel

The executive committee must have the authority and perform the duties outlined in the bylaws. It must, among other things:

1. Manage the commission's affairs consistent with the commission's bylaws and purposes;

1 2. Oversee "an organizational structure within, and appropriate procedures for the
2 [commission] to provide for the creation of rules, operating procedures, and administrative and
3 technical support functions"; and

4 3. Plan, implement and coordinate communication and activities with other state, federal
5 and local government organizations in order to advance the commission's goals.

6 The committee, subject to commission approval, may appoint or retain an executive
7 director on terms and conditions, and for the compensation, the commission considers
8 appropriate. The executive director must (1) serve as secretary to, but cannot be a member of,
9 the commission and (2) hire and supervise other personnel the commission authorizes.

10 Liability and Immunity Issues

11 The commission's executive director and its employees are immune from suit and
12 liability, either personally or in their official capacities, for property damage, personal injury or
13 other civil liability claims caused, arising from or relating to an actual or alleged act, error or
14 omission that occurred, or that they had a reasonable basis for believing occurred, within the
15 scope of their employment.

16 For the commission's executive director, employees and representatives acting within the
17 scope of their employment or duties, liabilities for acts, errors or omissions within their state
18 may not exceed the liability limits under the pertinent state's constitution and laws for state
19 officials, employees and agents. The commission is considered to be an instrumentality of the
20 states for purposes of such actions.

21 The commission must defend its executive director, employees and representatives in any
22 civil action seeking to impose liability arising from an actual or alleged act, error or omission
23 that occurred, or that they had a reasonable basis for believing occurred, within the scope
24 of their employment, duties or responsibilities. The defense of commission representatives is
25 subject to the approval of the attorney general or other appropriate legal counsel of the member
26 state represented by the commission representative.

27 To the extent not covered by the state involved, member state or the commission,
28 commission representatives or employees must be held harmless in the amount of a settlement
29 or judgment, including attorney's fees and costs, arising out of an actual or alleged act, error
30 or omission that occurred within the scope of their employment, or that they had a reasonable
31 basis for believing occurred within such scope.

32 The above provisions do not apply in cases of intentional or willful and wanton
33 misconduct.

34 ARTICLE XII – COMMISSION'S RULEMAKING FUNCTIONS

35 The commission must promulgate reasonable rules to effectively and efficiently achieve
36 the compact's purposes. If it exercises rulemaking authority beyond the scope of such purposes
37 or its powers under the compact, the action is invalid and has no legal effect.

38 The commission must make its rules under a rulemaking process that substantially
39 conforms to the 1981 federal "Model State Administrative Procedure Act," uniform laws
40 annotated, vol. 15, p. 1 (2000) as amended, as appropriate to the commission's operations.

41 Anyone may petition for judicial review of a commission rule within thirty (30) days
42 after it is promulgated. The filing of a petition does not stay or otherwise prevent the rule
43 from taking effect, unless the court finds that the petitioner has a substantial likelihood of

1 success. The court must give deference to the commission's actions consistent with applicable
 2 law. It cannot find the rule unlawful if it represents a reasonable exercise of the commission's
 3 authority.

4 If a majority of member states' legislatures rejects a rule by enacting a statute or
 5 resolution in the same manner used to adopt the compact, the rule has no further force and
 6 effect in any member state.

7 ARTICLE XIII – OVERSIGHT, ENFORCEMENT and DISPUTE RESOLUTION

8 Oversight

9 The compact and implementing rules have the force of statutory law. Member states'
 10 executive, legislative and judicial branches must enforce the compact and take necessary and
 11 appropriate actions to accomplish its purposes and intent.

12 Courts must take judicial notice of the compact and its rules in any judicial or
 13 administrative proceeding in a member state on compact provisions that may affect the
 14 commission's actions, powers or responsibilities. The commission is entitled to receive all
 15 service of process, and has standing to intervene, in any such proceeding. Failure to provide
 16 service of process to the commission renders a judgment or order void as to the commission,
 17 compact or promulgated rules.

18 Default

19 If the commission determines that a member state failed to perform its obligations or
 20 responsibilities under the compact, bylaws or promulgated rules, it must (1) send written notice
 21 to the defaulting state and other member states of the nature of the default, the means and
 22 conditions for correcting it, and any commission action and (2) provide remedial training and
 23 specific technical assistance on the default.

24 If the defaulting state fails to cure the default, its membership must be terminated by a
 25 majority vote of the member states, and all its rights, privileges and benefits under the compact
 26 are ended from the effective date of termination. Correcting the default does not relieve the
 27 state of obligations or liabilities it incurred when it was in default.

28 The commission may suspend or terminate a member state only after exhausting all other
 29 means of securing compliance. It must give notice of intent to suspend or terminate the state
 30 to (1) the state's governor and house and senate majority and minority leaders and (2) each
 31 member state. The state is responsible for all assessments, obligations and liabilities incurred
 32 through, and obligations that extend beyond, the effective date of suspension or termination.

33 The commission cannot bear costs for any state found to be in default or suspended or
 34 terminated, unless it and the state agree to this in writing.

35 A defaulting state may appeal commission actions by petitioning the U.S. district court
 36 for the District of Columbia or the federal district where the commission has its principal
 37 offices. The prevailing party must be awarded all litigation costs, including reasonable
 38 attorney's fees.

39 Dispute Resolution

40 The commission must attempt, if asked by a member state, to resolve compact disputes
 41 involving member states and between member and nonmember states. Its rules must provide
 42 for both mediation and binding dispute resolution, as appropriate.

Enforcement

The commission, in the reasonable exercise of its discretion, must enforce the compact and its rules. To enforce compliance with the compact or commission rules and bylaws against a defaulting state, it may, by majority vote of the members, initiate legal action in the U.S. district court for the District of Columbia or, at its discretion, in the federal district where it has its principal offices. It may seek both injunctive relief and damages. If judicial enforcement is necessary, the prevailing party must be awarded all litigation costs, including reasonable attorney's fees. The compact's remedies are not exclusive; the commission may avail itself of any other remedies available under state law "or the regulation of a profession."

ARTICLE XIV – FINANCING OF THE INTERSTATE COMMISSION

The commission must pay, or arrange to pay, the reasonable expenses of its establishment, organization and ongoing activities. It may levy on, and collect from, member states an annual assessment to cover the cost of its operations, activities and staff. The assessment must be sufficient to cover its annual approved budget. The commission must allocate the aggregate annual assessment, using a formula it establishes, and promulgate a rule binding on all member states.

The commission cannot (1) incur any obligations before securing adequate funds or (2) pledge any member state's credit, unless the state authorizes it to do so. It must keep accurate accounts of receipts and disbursements, which must be (1) subject to audit and accounting procedures established under its bylaws and (2) audited yearly by a certified or licensed public accountant. It must include the audit report as part of its annual report.

ARTICLE XV – EFFECTIVE DATE AND AMENDMENT

Any U.S. state or territory may join the compact, which takes effect and is binding when ten (10) states enact it. After that, it is effective and binding on any state that enacts it.

The commission may propose compact amendments for enactment by member states. Amendments take effect and are binding on the commission and member states when enacted into law by unanimous consent of member states.

Governors of nonmember states, or their designees, must be invited to participate in commission activities as nonvoters.

ARTICLE XVI – WITHDRAWAL AND DISSOLUTION

Withdrawal

Once it takes effect, the compact continues in force and binds all member states. A state may withdraw from the compact by repealing the statute that enacted it. The withdrawal cannot take effect until (1) one (1) year after the effective date of the repealing statute and (2) the withdrawing state gives written notice to the governor of each member jurisdiction.

When repealing legislation is introduced, the withdrawing state must immediately give written notice to the commission chairperson. The commission must notify other member states within sixty (60) days after receiving the notice.

1 The withdrawing state is responsible for all assessments, obligations and liabilities
 2 incurred through the effective date of withdrawal, including obligations that extend beyond that
 3 date.

4 A state may be reinstated upon reenacting the compact or on a later date the commission
 5 determines.

6 Dissolution

7 The compact dissolves on the date when only one (1) state remains a member. Upon
 8 dissolution, it becomes null and void and has no further force or effect. It must wind up its
 9 business and affairs and distribute any surplus funds in accordance with its bylaws.

10 ARTICLE XVII – SEVERABILITY AND CONSTRUCTION

11 The compact's provisions are severable and must be liberally construed to achieve their
 12 purposes. If any phrase, clause, sentence or provision is deemed unenforceable, the remaining
 13 provisions are enforceable.

14 The compact does not affect the applicability of other interstate compacts in which the
 15 states are members.

16 ARTICLE XVIII – EFFECT OF COMPACT AND OTHER LAWS

17 Other Laws

18 The compact does not prevent the enforcement of any other member state's law not
 19 inconsistent with the compact. It supersedes conflicting laws of any member state.

20 Binding Effect of the Compact

21 The commission's lawful actions, including its rules and bylaws, are binding upon
 22 member states. Agreements between the states and commission are binding in accordance
 23 with their terms. If any compact provision exceeds constitutional limits imposed on the
 24 legislature of any member state, the provision is ineffective to the extent of the conflict with
 25 the constitutional provision in that member state.